

REMARKS

This Amendment is fully responsive to the non-final Office Action dated December 21, 2011, issued in connection with the above-identified application. Claims 14, 17-20 and 23-26 are pending in the present application. With this Amendment, claims 14, 17-20 and 23-26 have been amended. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration is respectfully requested.

In the Office Action, the Examiner suggests changing the phrase “in the case it is judged” to the phrase “responsive to judging” in each of claims 14, 20, 25 and 26 in order to clarify the claims. Accordingly, the Applicants have amended claims 14, 20, 25 and 26, as suggested by the Examiner. That is, claims 14, 20, 25 and 26 have been amended to replace the phrase “in the case it is judged” to the phrase “responsive to judging.”

In the Office Action, claims 25 and 26 are rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. In particular, the Examiner indicates that the “computer program” recited in each of the claims is software *per se* and is not considered statutory under U.S. law. The Examiner suggests amending the claims to recite in each “a non-transitory computer-readable recording medium.”

The Applicants have amended claims 25 and 26 to now recite in each “a non-transitory computer-readable recording medium recording thereon an apparatus control program,” as suggested by the Examiner. Withdrawal of the rejection to claims 25 and 26 under 35 U.S.C. § 101 is respectfully requested.

In the Office Action, claims 14, 17-20 and 23-26 are rejected under 35 U.S.C. § 102(a) as being anticipated by Nakayama et al. (JP 2004-356696, hereafter “Nakayama”).

“A rejection based on 35 U.S.C. 102(a) can be overcome by perfecting a claim to priority under 35 U.S.C. 119(a)-(d) within the time period set in 37 CFR 1.55(a)(1) or filing a grantable petition under 37 CFR 1.55(c).”

The foreign priority filing date must antedate the reference and be perfected, and the filing date of the priority document is not perfected unless the Applicants have filed a certified priority document in the application (and an English language translation, if the document is not in English) (see MPEP § 706.02(b)).

The present application claims foreign priority to JP 2004-047275, which was filed on February 24, 2004 and antedates the U.S. publication date of Nakayama of December 2004.

Accordingly, Nakayama can be removed as prior art by perfecting the Applicants' foreign priority date of February 24, 2004. Accordingly, the Applicants provide herewith a certified English translation of priority document JP 2004-047275. Removal of Nakayama as prior art is respectfully requested. Additionally, given the removal of Nakayama as prior art, withdrawal of the rejection to claims 14, 17-20 and 23-26 under 35 U.S.C. § 102(a) is also respectfully requested.

In light of the above, the Applicants submit that all the pending claims are patentable over the prior art of record. The Applicants respectfully request that the Examiner withdraw the rejections presented in the outstanding Office Action, and pass the present application to issue. The Examiner is invited to contact the undersigned attorney by telephone to resolve any issues remaining in the application.

Respectfully submitted,

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